IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.2961 OF 1999

Hitesh N. Parikh Plaintiff

versus

Mukesh Doshi Defendant

Mr.Sanjay Jain i/by J.N.Pandhi for plaintiff

None for defendant.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 22nd June 2005

PC :

1. Mr.Jain for the plaintiff tenders affidavit proving service of the summons for judgement. The said affidavit states that the summons for judgement was duly served on the defendant's advocate Mr.Vijay Vaghela, who has put in his appearance and the said Mr.Vaghela has accepted service thereof and acknowledged receipt by signing on the reverse of the duplicate copy of the summons for judgement. Affidavit taken on record marked "X" for identification.

2. The suit is filed by the plaintiff to claim

amounts at the foot of a statement of account which have been duly confirmed and in that behalf reliance is placed upon Exhibit-A which is a letter of confirmation and admission of liability. The amount agreed to be paid is Rs.4,01,708/-. There is a further confirmation at Exhibit-B. Thereafter, a demand notice was addressed on 17th March 1999 which has been duly received but there has been no compliance with the requisitions contained therein. Mr.Jain tenders original documents along with list which are marked "X-1" for identification.

3. The suit is based upon the aforesaid balance confirmation and admission of the liability and thus is maintainable as a summary suit. The claim of the plaintiff is not barred by limitation inasmuch as suit is filed in 1999 and the last confirmation is of 7th June 1997. Even the stipulation of interest is admitted. There is no affidavit in reply nor is there any application made for leave to defend. There is no defence to the claim. Accordingly, plaintiff is entitled to a judgement. Hence following order.

4. ORDER :- A) Decree as prayed.

B) Further interest would be @ 18% p.a. on Rs.3,55,000/-.

C) Refund of court fees and computation of advocate’s costs as per rules.

D) Drawing up of decree is expedited.

(S.C.DHARMADHIKARI, J.)